

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ALEJANDRO C. MARTINEZ,

Plaintiff,

v.

No. CIV 07-1126 RB/CEG

**UNITED STATES BORDER PATROL,
MARCIO NUNEZ, KENNETH J. PARKS,
STEVEN A. HIGGS, PETER R. MORAN,**

Defendants.

ORDER

THIS MATTER comes before the Court on Plaintiff's Pro Se Motion to Extend Time to Respond to Motion for Summary Judgment (Doc. 45), filed on July 13, 2009, and Plaintiff's Pro Se Motion to Amend Replies for Motion for Summary Judgment (Doc. 46), filed on July 13, 2009. Plaintiff requests an additional sixty days in order to obtain an attorney and amend his response and sur-reply filed in opposition to Defendants' Motion for Summary Judgment.

Contemporaneous with this Order, the Court issues a Memorandum Opinion and Order on Defendant's Motion for Summary Judgment. As a result of the Memorandum Opinion and Order, Plaintiff's *Bivens* claim for excessive force against Agent Parks, and Count II, which was not addressed by Defendants' Motion for Summary Judgment, remain pending. In the Memorandum Opinion and Order, the Court presumes the truth of all of Plaintiff's factual allegations of record, views them in the light most favorable to Plaintiff, and resolves all reasonable inferences in Plaintiff's favor. Due to the Court's liberal treatment of Plaintiff's pro se submissions, representation of Plaintiff by counsel would not modify the Court's analysis of, and legal conclusions on, the Motion for Summary Judgment. For this reason, Plaintiff's request for an

extension of time to respond and to amend his sur-replies are denied as moot. However, in order to allow Plaintiff the opportunity to obtain counsel, the Court will stay this matter until August 17, 2009.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Robert Brack", is positioned above a horizontal line.

ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE